

UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WASHINGTON

Cassie Cordell Trueblood, next friend of  
Ara Badayos, an incapacitated person;  
The Snohomish County Public Defender  
Association, a non-profit corporation;

Plaintiffs,

v.

The Washington State Department of  
Social and Human Services; Western  
State Hospital; Kevin W. Quigley,  
Secretary of the Department of Social  
and Human Services, in his personal  
and official capacity; Ron Alder, Chief  
Executive Officer of Western State  
Hospital, in his personal and official  
capacity; Dr. Brian Waiblinger, Medical  
Director of Western State Hospital, in  
his personal and official capacity;

Defendants.

No. 14-cv-01178

**[PROPOSED]  
ORDER GRANTING TEMPORARY  
RESTRAINING ORDER AND  
PRELIMINARY INJUNCTIVE RELIEF**

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**[PROPOSED] ORDER - PAGE 1**

Braden Cyrus Pence  
Snohomish County Public Defender Association  
2722 Colby Avenue, Suite 200  
Everett, WA 98201

1 Having reviewed Plaintiffs' Emergency Motion for Preliminary Injunction and  
2 Temporary Restraining Order and supporting papers, Defendants' response thereto,  
3 oral argument from the Parties, and the case file, and otherwise being fully informed,  
4 the Court hereby FINDS:

5 A. Plaintiffs have a substantial likelihood of success on the merits of their  
6 claims for constitutional substantive due process violations;

7 B. Plaintiffs' legally incompetent clients are suffering on-going irreparable  
8 injury as a result of those violations;

9 C. The hardships endured by mentally ill persons held unlawfully in county  
10 jails are far greater than any hardship Defendants might bear in complying  
11 with the law;

12 D. The public's interest is advanced by the enforcement of the constitutional  
13 right to substantive due process; and

14 E. Immediate preliminary injunctive relief is the only remedy adequate to  
15 protect Plaintiffs' clients.

16 Accordingly, pending final resolution of this matter, the Court ORDERS that:

17 1. Defendants are enjoined and restrained from failing to provide legally  
18 incompetent in-custody individuals subject to a trial court order submitted  
19 pursuant to RCW 10.77 with transportation to Western State Hospital or  
20 an functionally equivalent mental health treatment facility within seven  
21 days of Defendant's receipt of such order;

22 2. Defendants are enjoined and restrained from failing to provide legally  
23 incompetent in-custody individuals subject to a trial court order submitted  
24 pursuant to RCW 10.77 with professional mental health competency  
25 restoration treatment at Western State Hospital or an functionally

1 equivalent mental health treatment facility within seven days of  
2 Defendant's receipt of such order;

- 3 3. With respect to the legally incompetent in-custody individuals referenced  
4 in paragraphs 1 and 2 who have waited longer than seven days for  
5 transportation and treatment, including Ms. Badayos, Defendants are  
6 enjoined and restrained from failing to provide the services described in  
7 paragraphs 1 and 2 in less than 48 hours from the entry of this Order;  
8 4. Defendants are subject to sanctions for contempt of court in the amount of  
9 \$600 per day, per individual for any violation of this order.

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1 Plaintiff's motions for a Temporary Restraining Order and Preliminary Injunction  
2 are GRANTED. This matter is set for a bench trial on the issue of Permanent Injunctive  
3 Relief will on \_\_\_\_\_.

4  
5 Dated this \_\_\_ day of August, 2014.

6  
7  
8 \_\_\_\_\_  
9 THE HONORABLE JUDGE MARSHA J. PECHMAN  
10 UNITED STATES DISTRICT COURT

11  
12 Submitted by:

13  
14  
15  
16 /s/ Braden Pence /s/ \_\_\_\_\_  
17 Braden Cyrus Pence, WSBA# 43495  
18 Snohomish County Public Defender Association  
19 2722 Colby Avenue, Ste. 200  
20 ATTORNEY FOR PLAINTIFFS

21  
22  
23  
24 Copy received:

25 \_\_\_\_\_  
26 Attorney General for the State of Washington  
27 ATTORNEY FOR DEFENDANTS

28  
4 - COMPLAINT